

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1254-03
Bill No.: HCS for HB 425
Subject: Environmental Protection; Property, Real and Personal; Utilities
Type: Original
Date: February 26, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> State Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None	\$0	\$0	\$0
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0 to (Unknown)	\$0 to (Unknown)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 6 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration - Division of Design and Construction, Department of Economic Development - Public Service Commission** and the **Department of Economic Development - Office of Public Counsel** assume this proposed legislation would have no fiscal impact on their agencies.

Officials from the **Department of Conservation** (MDC) assume the proposed legislation would not have significant impact on MDC funds.

Officials from the **Department of Transportation** (DHT) assume no fiscal impact based on the assumption that ownership of property includes fee simple and easement interests.

Officials from the **Department of Natural Resources** (DNR) assume the proposed legislation would have minimal fiscal impact on their agency.

Local Government - Fiscal Impact

Oversight assumes that all municipalities, counties, and county water districts who would have underground facilities would experience some fiscal impact from being required to be members of the notification center. Oversight assumes that any fiscal impact resulting from membership and user fees would not be significant to any one political subdivision. Oversight will show fiscal impact to local governments as \$0 to (Unknown).

Oversight also assumes that Recorder of Deeds would no longer be required to keep registration of owners of underground facilities thereby decreasing the administrative functions currently required.

The county would also experience a reduction in fees currently collected from these recordings. Oversight assumes that the trade off of reduced administrative duties verses the loss of fees would result in zero fiscal impact.

Oversight notes that fiscal impact is reflected starting in FY 03 because per the proposal, the effective date for mandatory participation in the notification center is January 1, 2003.

FISCAL IMPACT - State Government

FY 2002
(10 Mo.)

FY 2003

FY 2004

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2002	FY 2003 (6 Mo.)	FY 2004
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POLITICAL SUBDIVISIONS

<u>Costs*</u> - Participation in notification center	<u>\$0</u>	<u>\$0 to (Unknown)</u>	<u>\$0 to (Unknown)</u>
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*** - Costs to political subdivisions are not expected to be significant**

FISCAL IMPACT - Small Business

This proposal would impact small businesses which are owners of underground facilities and are not members of the current notification program by adding identification and membership expenses to their operation.

DESCRIPTION

This substitute makes several changes to the procedure for notification of intent to excavate to owners or operators of underground facilities. The substitute:

- (1) Excludes from the definition of the term "excavation" certain work by railroads regulated by the Federal Railroad Administration and on railroad property;
 - (2) Changes the definition of the term "marking" by distinguishing between potable water, which is marked with blue, and reclaimed water, which is marked with purple, and by including cable television facilities in those to be marked in orange;
 - (3) Makes several technical changes to the definition of the term "underground facility" and clarifies that the term excludes specified lines and facilities;
 - (4) Specifies in the definition of the term "notification center" that the center will operate 24 hours a day, 365 days a year, and will be governed by a board of directors elected by and
- DESCRIPTION (continued)

representative of the membership;

(5) Requires all current owners and operators of underground pipeline facilities to participate in a statewide notification center by January 1, 2003. Participation in the notification center is mandatory after January 1, 2003. Current law does not require participation;

(6) Requires notification centers to maintain a current list of participating owners and operators, which must be made available to excavators upon request. The notification centers may charge a reasonable fee to those requesting a copy of the list to cover the costs of printing and mailing;

(7) Changes notification requirements. Prior to January 1, 2003, excavators must notify the notification center and directly notify those owners and operators registered with the Recorder of Deeds at least 2 but not more than 10 working days prior to excavation. Effective January 1, 2003, notice to the notification center is considered notice to all owners and operators of underground facilities;

(8) Allows the owner or operator to require a copy of the excavator's project plans for the site or to arrange a meeting at the site with the excavator if the excavation area cannot be determined from the description in the excavation notice. Residential property owners excavating on their own properties are exempt from this requirement;

(9) Changes the notice of intent to excavate to include a facsimile number, if available; availability of a person at the telephone number listed on the notice between 8:00 a.m. and 5:00p.m. on working days; and whether there is a recording device at the telephone number;

(10) Requires that the notice also include a description of the excavation location by direction and approximate distance in relation to prominent features of the site and specifies additional information for excavations outside of city limits;

(11) Requires the notification center to keep a written record of each notice of intent to excavate for 5 years;

(12) Changes the notification procedures when, during an excavation, the excavator discovers that the owner or operator has incorrectly located the underground facility. The substitute requires the excavator to notify the notification center, which will inform the participating owner or operator, or prior to January 1, 2003, the excavator will directly notify the owner or operator;

(13) Allows excavators to continue working in a marked area so long as the markings are visible. If the markings become unusable, the excavator must call the notification center to
DESCRIPTION (continued)

request remarking. The excavator must exercise reasonable care not to obliterate the markings

unnecessarily;

(14) Requires the owner or operator of an underground facility to inform the excavator of the approximate location of any valves or other appurtenances at the same time and in the same manner as the approximate location of the remainder of the facility is furnished and to provide a telephone number by which the excavator may contact a representative of the owner or operator to meet at the site within one working day to furnish available information relating to the appurtenances;

(15) Changes the time frame for a meeting on-site of the owner or operator and the excavator from within 48 hours to 2 working days of the request for marking and allows the location to be marked at the time of the meeting;

(16) Allows the owner or operator to give notice of no facilities at the site by calling the telephone number on the notice between 8:00 a.m. and 5:00 p.m. on working days, leaving a message on the excavator's recording device, sending a fax message to the excavator, marking "no facilities" or "clear" at the site, or verbally informing the excavator at the site. Two documented attempts to reach the excavator by telephone constitute compliance;

(17) Clarifies that the substitute's provisions do not prohibit owners of agricultural and horticultural property from making improvements on that property, as long as the improvements are not in the utility easement;

(18) Requires the excavator to give second notice to the same entity to whom original notice was made prior to excavation if the owner or operator fails to give location information. If after the second notice, the owner or operator fails to give location information during the next working day, the excavator may begin excavation;

(19) Applies the substitute's provisions to excavation sites involving horizontal boring where the approximate location of underground facilities has been marked in compliance with the substitute's provisions and where any part of the walls of the intended bore are within the marked approximate location;

(20) Prohibits excavators from using power-driven equipment for horizontal boring within the marked approximate location of the underground facilities until they have made careful and prudent efforts to confirm the horizontal and vertical location of the facilities through specified methods;

DESCRIPTION (continued)

(21) Prohibits after January 1, 2003, the recovery of damages by any owner or operator failing to participate in the notification center when notice of excavation was given. The substitute's

provisions do not abrogate any contractual agreement between any railroad and any other party owning underground facilities in the railroad right-of-way;

(22) Changes the damage notification requirement from notifying the notification center and the owner or operator to notifying only the notification center effective January 1, 2003; and

(23) Specifies in which emergency situations excavation is allowed without regard to notification requirements. Emergency excavation is allowed for unexpected occurrences, including fires, floods, earthquakes, and riots.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Conservation
Department of Economic Development - Office of Public Counsel
Department of Economic Development - Public Service Commission
Department of Natural Resources
Department of Transportation
Office of Administration - Division of Design and Construction

NOT RESPONDING: City of Kansas City, City of St. Louis and Greene County Recorder of Deeds



Jeanne Jarrett, CPA
Director

February 26, 2001